

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 26, 2019

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2019 JUL 26 P 1:55

APPLICATION OF

FOXHOUND SOLAR, LLC

CASE NO. PUR-2019-00107

For approval and certification
of certain electrical facilities associated
with a small renewable energy project

ORDER FOR NOTICE AND COMMENT

On July 12, 2019, Foxhound Solar, LLC ("Foxhound" or "Company"), pursuant to § 56-580 D of the Code of Virginia ("Code"), or alternatively pursuant to Code § 56-265.2, and Rule 80 A of the Commission's Rules of Practice and Procedure ("Rules of Practice"),¹ filed with the State Corporation Commission ("Commission") an application ("Application") for a certificate of public convenience and necessity ("CPCN") to construct, own, and operate the following facilities in Halifax County, Virginia: (i) a 34.5 kilovolt ("kV") distribution-level collection line and (ii) a substation and other electrical facilities by which solar power will be stepped up from 34.5 kV to 230 kV to be delivered to the point of interconnection with Virginia Electric and Power Company ("Dominion") facilities (collectively, "Collection Facilities").² Foxhound also filed a Motion for Protective Order and Additional Protective Treatment with its Application.

As part of a small renewable energy project ("Project"), the Collection Facilities would connect solar energy generating facilities ("Solar Facilities") to the transmission grid for sale of

¹ 5 VAC 5-20-10 *et seq.*

² Application at 1.

150740237

electricity, capacity, and other services into the PJM Interconnection, L.L.C. ("PJM") market.³ The Company notes that it is requesting a CPCN for the Collection Facilities only.⁴ The Application states that Foxhound has filed a permit by rule application for the Solar Facilities with the Virginia Department of Environmental Quality ("DEQ") pursuant to Code § 10.1-1197.5 *et seq.*⁵

As proposed, Foxhound would construct, own, and operate the Collection Facilities in Halifax County.⁶ Through its Application, Foxhound indicates that the Halifax County Board of Supervisors granted the Company a Conditional Use Permit for both the Collection Facilities and the Solar Facilities.⁷ The Company also represents that it is negotiating easements with Dominion, Old Dominion Electric Cooperative, and REW Land, LLC and that it has already secured an easement from the Virginia Outdoors Foundation.⁸ According to Foxhound, it has provided Dominion with prior notice of the Collection Facilities, and Dominion does not object to the Company's owning, constructing, and operating the Collection Facilities within Dominion's certificated territory.⁹

According to its Application, Foxhound is a special-purpose entity organized to develop, construct, own, and operate the Collection Facilities, along with the Solar Facilities.¹⁰ The

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.* at 6-7.

⁶ *Id.* at 8.

⁷ *Id.* at 9.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 3.

Company anticipates that the Project will achieve commercial operation in the second quarter of 2020, which requires construction to begin before the end of 2019.¹¹

Foxhound asserts that the Collection Facilities are not contrary to the public interest and will not have an adverse effect upon the reliability of electric service provided by any regulated public utility.¹² The Company states that the construction and operation of the Collection Facilities will promote the public interest by providing economic benefits to the Commonwealth of Virginia ("Commonwealth") and to Halifax County.¹³ Foxhound further states that the Project, including the Collection Facilities, will increase renewable energy generation and availability in the Commonwealth, which has been a key driver in attracting business growth and economic development.¹⁴ Foxhound intends to file and certify as an exempt wholesale generator with the Federal Energy Regulatory Commission ("FERC"), and the Company anticipates that FERC will authorize it to sell energy, capacity, and ancillary services at market-based rates.¹⁵ Foxhound maintains that the Project, which includes the Collection Facilities, will not impact rate payers nor will Foxhound make direct retail sales of electricity to end users in Virginia.¹⁶ Foxhound indicates that the Project, including the Collection Facilities, should assure greater

¹¹ *Id.* at 2-3.

¹² *Id.* at 12.

¹³ *Id.* at 14, 16.

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 13.

¹⁶ *Id.* at 14.

reliability of electric service in the local region and would connect to Dominion's transmission system based on studies conducted by PJM.¹⁷

According to the Application, Foxhound will obtain all necessary environmental permits and approvals to build and operate the Collection Facilities.¹⁸ The Company indicates that it will continue to engage regulatory agencies with oversight responsibilities for all environmental aspects of the Collection Facilities, and those agencies will exercise oversight and apply permitting or regulatory requirements on the construction and operation of the Collection Facilities as required.¹⁹

As provided by Code § 62.1-44.15:21 D 2, the Commission and the State Water Control Board must consult on wetland impacts prior to the siting of electric utility facilities that require a CPCN. As required by Section 3 of the Department of Environmental Quality – State Corporation Commission Memorandum of Agreement Regarding Wetland Impacts Consultation, the Commission's Staff ("Staff") has advised the DEQ, acting on behalf of the State Water Control Board, that Foxhound filed its Application and that consultation is required.²⁰

In addition to consultation on wetlands, Code §§ 10.1-1186.2:1 C; 56-46.1 G, and 56-580 D direct the Commission and DEQ to coordinate the environmental review of proposed generating plants and associated facilities. Moreover, Code § 56-46.1 A provides for the Commission to receive and to consider reports on the proposed facilities from state

¹⁷ *Id.* at 13.

¹⁸ *Id.* at 17.

¹⁹ *Id.*

²⁰ Letter from William H. Harrison, IV, Esquire, State Corporation Commission, July 19, 2019, to David L. Davis, CPWD, PWS, Director, Office of Wetlands & Stream Protection, Department of Environmental Quality, filed in Case No. PUR-2019-00107.

environmental agencies. Accordingly, the Staff has requested DEQ to coordinate an environmental review of the Collection Facilities by the appropriate agencies and to provide a report on the review.²¹

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; Foxhound should provide public notice of its Application; interested persons should have an opportunity to file comments on the Application, file a notice of participation as a respondent, and/or request that a hearing be convened; the Staff should be directed to investigate the Application and present its findings and recommendations in a report; and a Hearing Examiner should be assigned to rule on any discovery matters that may arise during the course of this proceeding, including the Company's Motion for Protective Order and Additional Protective Treatment.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2019-00107.

(2) As provided by Code § 12.1-31 and Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to rule on any discovery matters that may arise during the course of this proceeding, including the Company's Motion for a Protective Order and Additional Protective Treatment.

(3) A copy of the public version of the Application, as well as a copy of this Order for Notice and Comment, may be obtained by submitting a written request to counsel for the Company, Robert F. Riley, Esquire, Williams Mullen, 1666 K Street, NW, Suite 1200, Washington, DC 20006. If acceptable to the requesting party, the Company may provide the

²¹ Letter from William H. Harrison, IV, Esquire, State Corporation Commission, July 19, 2019, to Bettina Rayfield, Department of Environmental Quality, filed in Case No. PUR-2019-00107.

documents by electronic means. Copies of the public version of all documents also shall be available for interested persons to review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(4) On or before August 16, 2019, Foxhound shall cause the following notice and sketch map showing the location of the proposed facilities, as shown in Appendix 1, Attachment V.A to the Application) to be published as display advertising (not classified) on one occasion in newspapers of general circulation in Halifax County:

NOTICE TO THE PUBLIC OF
AN APPLICATION BY FOXHOUND SOLAR, LLC, FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR ASSOCIATED FACILITIES TO A SOLAR GENERATING
FACILITY IN HALIFAX COUNTY
CASE NO. PUR-2019-00107

On July 12, 2019, Foxhound Solar, LLC ("Foxhound" or "Company"), pursuant to § 56-580 D of the Code of Virginia ("Code"), or alternatively pursuant to Code § 56-265.2, and Rule 80 A of the Commission's Rules of Practice and Procedure ("Rules of Practice"), filed with the State Corporation Commission ("Commission") an application ("Application") for a certificate of public convenience and necessity ("CPCN") to construct, own, and operate the following facilities in Halifax County, Virginia: (i) a 34.5 kilovolt ("kV") distribution-level collection line and (ii) a substation and other electrical facilities by which solar power will be stepped up from 34.5 kV to 230 kV to be delivered to the point of interconnection with Virginia Electric and Power Company ("Dominion") facilities (collectively, "Collection Facilities"). Foxhound also filed a Motion for Protective Order and Additional Protective Treatment with its Application.

As part of a small renewable energy project ("Project"), the Collection Facilities would connect solar energy generating facilities ("Solar Facilities") to the transmission grid for sale of

electricity, capacity, and other services into the PJM Interconnection, L.L.C. ("PJM") market. The Company notes that it is requesting a CPCN for the Collection Facilities only. The Application states that Foxhound has filed a permit by rule application for the Solar Facilities with the Virginia Department of Environmental Quality pursuant to Code § 10.1-1197.5 *et seq.*

As proposed, Foxhound would construct, own, and operate the Collection Facilities in Halifax County. Through its Application, Foxhound indicates that the Halifax County Board of Supervisors granted the Company a Conditional Use Permit for both the Collection Facilities and the Solar Facilities. The Company also represents that it is negotiating easements with Dominion, Old Dominion Electric Cooperative, and REW Land, LLC and that it has already secured an easement from the Virginia Outdoors Foundation. According to Foxhound, it has provided Dominion with prior notice of the Collection Facilities, and Dominion does not object to the Company's owning, constructing, and operating the Collection Facilities within Dominion's certificated territory.

According to its Application, Foxhound is a special-purpose entity organized to develop, construct, own, and operate the Collection Facilities, along with the Solar Facilities. The Company anticipates that the Project will achieve commercial operation in the second quarter of 2020, which requires construction to begin before the end of 2019.

Foxhound asserts that the Collection Facilities are not contrary to the public interest and will not have an adverse effect upon the reliability of electric service provided by any regulated public utility. The Company states that the construction and operation of the Collection Facilities will promote the public interest by providing economic benefits to the Commonwealth of Virginia ("Commonwealth") and to Halifax County. Foxhound further states that the Project, including the Collection Facilities, will increase renewable energy generation and availability in the Commonwealth, which has been a key driver in attracting business growth and economic development. Foxhound intends to file and certify as an exempt wholesale generator with the Federal Energy Regulatory Commission ("FERC"), and the Company anticipates that FERC will authorize it to sell energy, capacity, and ancillary services at market-based rates. Foxhound maintains that the Project, which includes the Collection Facilities, will not impact rate payers nor will Foxhound make direct retail sales of electricity to end users in Virginia. Foxhound indicates that the Project,

including the Collection Facilities, should assure greater reliability of electric service in the local region and would connect to Dominion's transmission system based on studies conducted by PJM.

According to the Application, Foxhound will obtain all necessary environmental permits and approvals to build and operate the Collection Facilities. The Company indicates that it will continue to engage regulatory agencies with oversight responsibilities for all environmental aspects of the Collection Facilities, and those agencies will exercise oversight and apply permitting or regulatory requirements on the construction and operation of the Collection Facilities as required.

Description of the Proposed Project

Foxhound proposes to construct the Collection Facilities a part of its solar facility located in Halifax County. The Collection Line portion will consist of two 34.5kV distribution-level circuits that run approximately 1.3 miles between the solar panels and the Collection Substation. The collection circuits will be placed on a single row of poles, which will be supported by weathering steel poles that will average approximately 80 feet in height. At the Virginia Outdoors Foundation easement along Black Walnut Creek, weathering steel monopole structures will be used with the maximum height of approximately 80 feet. The minimum structure height is approximately 75 feet. The 34.5kV Collection Line will terminate at a proposed Collection Substation on Dominion's Clover Power Station property.

The Collection Substation component of Foxhound's solar project will generally consist of two feeder breakers and a generator step-up transformer. The Collection Substation will be connected to a Dominion switchyard via a 230kV rigid bus system. The power will then be delivered to Dominion's 230kV transmission system at the adjacent switching station by an approximately 100-foot span of 230kV attachment line. The Collection Substation will be located on an approximate one-acre parcel to be leased from Dominion.

Interested persons are encouraged to review the Application and supporting documents for further details of the Company's proposals.

Copies of the public version of the Application and the Order for Notice and Comment that the Commission entered in this case may be obtained by submitting a written request to counsel for the Company, Robert F. Riley, Esquire, Williams Mullen, 1666 K Street, NW, Suite 1200, Washington, DC 20006. If acceptable to the requesting party, the Company may provide the documents by electronic means.

Copies of the public version of the Application and documents filed in this case also are available for interested persons to review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Copies of the Application and other supporting materials also may be inspected during regular business hours at the following locations:

Halifax County Planning & Zoning Department
1030 Mary Bethune Street, Suite LL1
Halifax, Virginia 24588

Stantec Consulting Services, Inc.
5209 Center Street
Williamsburg, Virginia 23188

Williams Mullen
200 South 10th Street
Suite 1600
Richmond, Virginia 23219

On or before September 6, 2019, any interested person wishing to comment on the Company's Application shall file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any interested person desiring to file comments electronically may do so on or before September 6, 2019, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUR-2019-00107.

On or before September 6, 2019, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address above. A copy of the notice of participation as a respondent also must be sent to counsel for the Company at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All filings shall refer to Case No. PUR-2019-00107.

On or before September 6, 2019, any interested person may file a written request for a hearing. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth above. Written requests for hearing shall refer to Case No. PUR-2019-00107 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. A copy also shall be served on Dominion at the address set forth above.

All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Comment in this proceeding may be obtained from the Clerk of the Commission at the address above.

FOXHOUND SOLAR, LLC

(5) On or before August 16, 2019, the Company shall serve a copy of this Order for Notice and Comment on the chairman of the board of supervisors and county attorney of Halifax

County, and on Dominion. Service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(6) On or before August 23, 2019, the Company shall file with the Clerk of the Commission proof of the notice and service required by Ordering Paragraphs (4) and (5), including the name, title, and address of each official served with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(7) On or before September 6, 2019, any interested person may file written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (6). Any interested person desiring to submit comments electronically may do so on or before September 6, 2019, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2019-00107.

(8) Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before September 6, 2019. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (6), and the respondent shall serve a copy of the notice of participation on counsel to the Company at the address in Ordering Paragraph (3). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization,

corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00107.

(9) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon such respondent a copy of this Order for Notice and Comment, a copy of the public version of the Application, and all materials filed by Foxhound with the Commission unless these materials have already been provided to the respondent.

(10) On or before September 6, 2019, any interested person may file a written request for a hearing. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (6). Written requests for hearing shall refer to Case No. PUR-2019-00107 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. A copy also shall be served on counsel to the Company at the address in Ordering Paragraph (3).

(11) The Staff shall investigate the Application. On or before September 27, 2019, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of its report and exhibits regarding its investigation of the Application.

(12) On or before October 4, 2019, the Company may file with the Clerk of the Commission any comments on the Staff's report, any comments filed by interested persons in this proceeding, and any requests for hearing. If not filed electronically, an original and fifteen (15) copies of such comments shall be filed with the Clerk of the Commission.

(13) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(14) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: Responses and objections to written interrogatories and requests for production of documents shall be served within three (3) calendar days after receipt of the same. In addition to the service requirements of Rule of Practice 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff.²² Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(15) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Vanessa Kwong, Esquire, Vice President, Longroad Energy Holdings, LLC, 735 Montgomery Street, Suite 480, San Francisco, California 94111; Robert F. Riley, Esquire, and Bradley J. Nowak, Esquire, Williams Mullen, 1666 K Street, NW, Suite 1200, Washington, DC 20006; Robert D. Perrow, Esquire, Williams Mullen, 200 S. 10th Street, Suite 1600, Richmond, Virginia 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North 9th Street, 8th Floor, Richmond, Virginia

²² The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUR-2019-00107, in the appropriate box.

23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.